

Senate File 340 - Introduced

SENATE FILE 340

BY GUTH

A BILL FOR

1 An Act relating to commercial establishments selling dogs or
2 cats to consumers, by providing for express warranties
3 covering the condition of the dogs or cats, and making
4 penalties applicable.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 162.17 Express warranty.

2 1. A commercial establishment that transfers ownership
3 and possession of a dog or cat to a consumer for the personal
4 use and enjoyment of the consumer, and not for resale, shall
5 furnish the consumer with an express warranty in written form
6 covering damages caused by the condition of the dog or cat as
7 provided in this section. The form of the express warranty
8 shall be prescribed by the department.

9 2. If a commercial establishment fails to furnish a written
10 express warranty to a consumer, the express warranty shall
11 apply as if the commercial establishment had furnished the
12 written express warranty to the consumer.

13 3. Any waiver of a right by a consumer under this section
14 is void.

15 4. The express warranty shall expire twenty-one days from
16 the date that the consumer takes possession of the dog or cat.

17 5. The express warranty shall cover all of the following
18 conditions:

19 a. (1) An illness or disease that adversely affects the
20 health of the dog or cat, including the presence of symptoms of
21 a contagious or infectious disease or an obvious sign of severe
22 parasitism that is extreme enough to influence the general
23 health of the dog or cat.

24 (2) An illness or disease does not include the presence of
25 fleas or ticks.

26 b. A congenital or hereditary condition that adversely
27 affects the health of the dog or cat, if the condition results
28 in any of the following:

29 (1) The hospitalization of the dog or cat or a nonelective
30 surgical procedure performed on the dog or cat, as recommended
31 by a veterinarian.

32 (2) The death of the dog or cat.

33 6. A consumer who makes a claim on an express warranty shall
34 demand compensation from the commercial establishment in any
35 of the following forms:

1 furnish the consumer with an express warranty in written form
2 covering damages caused by the condition of the dog or cat.
3 The bill provides that the express warranty applies regardless
4 of whether the commercial establishment provides the consumer
5 with a specific written form required to be promulgated by
6 the department. The bill provides that the express warranty
7 cannot be waived by the consumer and that the warranty expires
8 21 days from the date that the consumer takes possession of
9 the dog or cat. The express warranty covers illness, disease,
10 or a congenital or hereditary condition. The express warranty
11 allows the consumer to make a claim for compensation in one of
12 several forms: (1) refund, (2) exchange, or (3) reimbursement
13 of veterinarian fees. The commercial establishment must post a
14 notice briefly explaining the express warranty in a conspicuous
15 place. The bill does not limit the rights or remedies provided
16 to consumers under other law. The bill allows a consumer who
17 does not receive compensation from the commercial establishment
18 to bring an action in court to recover pecuniary damages plus
19 court costs and reasonable attorney fees, which are to be taxed
20 as part of the costs of the action. In addition, the court
21 may grant any equitable relief that the court determines is
22 appropriate.

23 CIVIL PENALTY APPLICABLE. A commercial establishment
24 violating the bill's provisions is subject to a civil penalty
25 of not more than \$500 and each day of a violation constitutes a
26 separate offense (Code section 162.12A).

27 BACKGROUND. Commercial establishments that are involved in
28 these types of transactions include animal shelters and pounds
29 which are required to obtain a certificate of registration;
30 pet shops which are required to obtain a state license; and
31 commercial breeders which are required to obtain a state
32 license or a permit if licensed by the United States department
33 of agriculture (USDA) (Code section 162.2A).